

meeting in the **Federal Register**. The first meeting will focus on procedural matters, including dates, times, and locations of future meetings. Notice of subsequent meetings would also be published in the **Federal Register** before being held.

FRA expects that the Committee would reach consensus and prepare a report recommending a proposed rule within six months of the first meeting. However, if unforeseen delays occur, the Administrator may agree to an extension of that time if a consensus of the Committee believes that additional time will result in agreement. The process may end earlier if the facilitator so recommends.

(J) *Committee Procedures*: Under the general guidance of the facilitator, and subject to legal requirements, the Committee would establish the detailed procedures for meetings which it considers appropriate.

(K) *Record of Meetings*: In accordance with FACA's requirements, FRA would keep a record of all Committee meetings. This record would be placed in the public docket for this rulemaking. Meetings of the Committee would generally be open to the public.

(L) *Consensus*: The goal of the negotiating process is consensus. FRA proposes that the Committee would develop its own definition of consensus, which may include unanimity, a simple majority, or substantial agreement such that no member will disapprove the final recommendation of the Committee. However, if the Committee does not develop its own definition, consensus shall be unanimous concurrence.

(M) *Notice of Proposed Rulemaking and Final Rule*: The Committee's first objective is to prepare a report containing a notice of proposed rulemaking, preamble, and economic evaluation. If consensus is not obtained on some issues, the report should identify the areas of agreement and disagreement, and explanations for any disagreement. It is expected that participants will address cost/benefit, paperwork reduction, and regulatory flexibility requirements. FRA would prepare an economic assessment if appropriate.

FRA would issue the proposed rule as prepared by the Committee unless it is inconsistent with statutory authority of the agency or other legal requirements or does not, in the agency's view, adequately address the subject matter. If that occurs, FRA would explain the reasons for its decision, or would modify the proposal in a way that allows the public to distinguish modifications from the original proposal.

The Committee would reconvene to review comments received in response to publication of the proposed rule and would negotiate to produce a recommended final rule. FRA would issue the recommended final rule as prepared by the Committee unless it is inconsistent with statutory authority of the agency or other legal requirements or does not, in the agency's view, adequately address the subject matter. If that occurs, FRA would explain the reasons for its decision, or would modify the recommended final rule in a way that allows the public to distinguish modifications from the recommended final rule.

(N) *Key Issues for Negotiation*: FRA has reviewed correspondence, petitions, injury data, existing railroad operating practices, and has engaged in extensive dialogue concerning the protection of roadway workers. Based on this information and rulemaking requirements, FRA has tentatively identified major issues that should be considered in this negotiated rulemaking. Other issues related to roadway protection not specifically listed in this Notice may be addressed as they arise in the course of the negotiation. Comments are invited concerning the appropriateness of these issues for consideration and whether other issues should be added.

1. Are devices available that may be used to reduce the risk of danger to roadway workers? If so, how do these devices work and what are the costs associated with them?

2. Are there appropriate procedures or operating practices that may be instituted effectively to reduce the risk of danger to roadway workers? If so, what are the costs that will be associated with implementing these practices and procedures?

3. Are there appropriate training programs that may be given to reduce the risk of danger to roadway workers? If so, at what intervals should they be taught? Also, what are the costs and the time associated with such a program?

4. Are there peculiar topographical, environmental, and operational conditions that must be considered in developing a program to reduce the risk of harm to roadway workers? What are the specific conditions, and how do they vary from one region to another, and from one railroad to another? What would the cost for this program be?

5. Should any program developed vary according to the size of a railroad? If so, explain why such variations are necessary and how the programs should differ.

6. What recordkeeping and reporting requirements, if any, should be

instituted to advance the safety of roadway workers? What is the amount of time and cost involved with these requirements?

7. What enforcement procedures should FRA utilize to ensure compliance with any rule developed?

8. Aside from the obvious benefit of providing safer working conditions and so reducing the risk of injury and death for roadway workers, are there additional benefits (both monetary and non-monetary) that will result from the implementation of a rule concerning roadway workers?

9. Do any railroads currently have internal operating practices that address the intended purposes of this negotiated rulemaking? If so, please provide the background for implementation of these practices, and a description of their effectiveness. Also, what were the costs and benefits associated with implementing these practices?

IV. Public Participation

FRA invites comments on all issues, procedures, guidelines, interests, and suggested participants embodied in this Notice. All comments and requests for participation should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Room 8201, Washington, DC 20590.

Issued this 11th day of August 1994.

Jolene M. Molitoris,

Administrator.

[FR Doc. 94-20078 Filed 8-16-94; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-day Finding on a Petition To List the Scaled Dune Buprestid Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding on a petition to list the scaled dune buprestid beetle (*Lepismadora algodones*) under the Endangered Species Act of 1973, as amended (Act). The Service determines that substantial information has not been presented indicating that the requested action may be warranted.

DATES: Comments from all interested parties will be accepted until further notice.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. The complete file for this action is available for public inspection, by appointment, during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Gail Kobetich at the above address (telephone 619/431-9440).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533) (Act), requires that the Service make a finding on whether a petition to list, delist or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be published promptly in the **Federal Register**. The Service determines that the subject petition did not present substantial information indicating that the requested action may be warranted.

On August 10, 1992, the Service received a petition to list the scaled dune Buprestid beetle (*Lepismadora algodones*) as an endangered species. The petition was submitted by Dr. Charles Bellamy of Escondido, California and was dated August 5, 1992. The petition stated that *L. algodones* is imperiled because its current distribution is small, its population size is low, and its habitat is being depleted and degraded by off-highway vehicles (OHVs).

The scaled dune buprestid beetle was first collected in 1985 along the western

edge of the Algodones Sand Hills, near Glamis, Imperial County, California (Bellamy 1992). The beetle was first described in 1987 by R.K. Velten (Velten and Bellamy 1987). It is quite distinct from other buprestids in North America (Bellamy 1992). The species has been collected from its type locality every year since 1985.

The scaled dune buprestid beetle occupies ecotonal vegetation between Sonoran creosote bush scrub and southern dune scrub along the perimeter of the Algodones Sand Hills, an area of extensive sand dunes approximately 45 miles (70 kilometers) in length.

Dominant shrubs in this habitat include *Larrea divaricata* (creosote), *Ephedra* sp., and *Eriogonum deserticola* (Imperial buckwheat). A variety of perennial herbs as also present in this habitat. Adult beetles have been observed feeding on *Tiquila plicata* (plicate coldenia), but no information is available on larval hosts or the species' population biology.

The Bureau of Land Management owns the lands supporting the beetle. Portions of the Algodones Sand Hills are heavily used by OHVs and are completely denuded of vegetation. A large portion of the sand hills are closed to OHV use, and much of the open section of the dunes are unaffected by OHVs, because the area is not easily accessible.

Dr. Bellamy (pers. comm. 1992) suggested that the scaled dune buprestid is restricted to a single large colony, located in the closed portion of the dunes. He acknowledge that seemingly suitable habitat exists along the perimeter of the Algodones Sand Hills. *Tiquila plicata*, an adult food plant, is common along the perimeter of the dunes. Dr. Bellamy indicated that much

of the area has not been surveyed because it is inaccessible without using OHVs, which would potentially damage the species habitat.

The Service has carefully reviewed the petition and interviewed Dr. Bellamy. Based upon this information, the Service has determined that substantial information has not been presented indicating that the listing of the scaled dune buprestid may be warranted. This finding is based upon a lack of data for the vast majority of apparently suitable habitat, coupled with a lack of documentation of threats facing this species.

References Cited

- Bellamy, C.L. 1991. Petition for listing the scaled dune buprestid *Lepismadora algodones* Velten (Coleoptera: Buprestidae) unpublished document.
Velten, R.K., and C.L. Bellamy. 1987. A new genus and species of North American Coiroebini Bedel with a discussion of its relationship within the tribe (Coleoptera: Buprestidae). *The Coleopterists Bulletin* 41(2):185-192.

Author

This notice was prepared by Ellen Berryman, Carlsbad Field Office, Carlsbad Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Authority: 16 U.S.C. 1531-1544.

Dated: August 10, 1994.

Russell D. Earnest,

Director, U.S. Fish and Wildlife Service

[FR Doc. 94-20161 Filed 8-16-94; 8:45 am]

BILLING CODE 4310-65-M